

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2731 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KANAIYALAL M VYAS

Versus

G.S.R.T.C., RAJKOT DIVISION, RAJKOT

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Appearance:

MR PS CHARI for Petitioner

MR HARDIK RAVAL for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/09/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, a Conductor of Gujarat State Road Transport Corporation, filed this Special Civil Application before this Court challenging thereunder the Award of the Labour Court in Ref.(LCR) No.3 of 1981, under which penalty of dismissal given to him has been substituted by penalty of reduction of pay scale to his initial pay scale.

2. The petitioner was dismissed from services after holding a full fledged departmental inquiry for misconduct committed by him of taking fare from the passengers of the bus and not issuing them tickets. The only contention made by the learned counsel for the petitioner is that the penalty of reducing the pay of the petitioner to his initial scale in the grade of Conductor is bad in law.

3. On the other hand, the learned counsel for the respondent contended that a lenient view has been taken by Tribunal in the matter of Award of punishment to the workmen. It was a case of dismissal, but the same has been substituted by penalty of reduction of his pay scale. He further contended that this Court should not interfere in the quantum of punishment which has been given by the Tribunal to the petitioner.

4. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties.

5. This Court sitting under Article 226 of the Constitution of India, has very limited powers of judicial review with the quantum of punishment given to a delinquent employee for proved misconduct. The Tribunal, on the other hand, has powers conferred on it u/s.11(A) of the Industrial Disputes Act, 1947. What punishment should be appropriate in a case where charges levelled against the petitioner are proved is the matter exclusively in domain of the Labour Court and not this Court. The Supreme Court in the case of B.C. Chaturvedi v. Union of India, reported in JT 1995(8) SC 65, held that only in exceptional cases where the punishment given to a delinquent employee is found to be shocking to the judicial conscience of this Court, interference can be made in quantum of punishment and not otherwise. Looking to the charges which have been framed against the petitioner, I am of opinion that the Tribunal has taken a lenient view. It is not a case where the present case can be put in a category of cases where the penalty given to the petitioner by the Labour Court is shocking the judicial conscience of this Court. No interference is called for in the present case in the Award made by the Labour Court.

4. In the result, this Special Civil Application fails and the same is dismissed. Rule is discharged. No order as to costs.

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(sunil)